IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3678 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ISHWARBHAI AMBALAL PRAJAPATI - Appellant(s)
Versus
CHAMPAKLAL RAMJI THAKORE & 2 - Defendant(s)

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Appearance :

MR VIPUL S MODI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 2.
MR AJAY R MEHTA for Defendant(s) : 3,
MR SHASHIKANT S GADE for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 30/08/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgment and award dated 23.3.98 passed by Motor Accidents Claims Tribunal (Main)

Banaskantha District Palanpur in Motor Accident Claim Petition No. 271/87.

2. The original claimant had filed claim petition seeking compensation of Rs 50,000/- for the injury sustained by him in a vehicular accident which occurred on 9.4.86 at about 3-35 p.m within the compound of Joravar Palace particularly near the entry gate of Collector's office. It is the case of the applicant that while he was returning from R.T.O check Post after performing the office work on his scooter No. GAC 6123, the autorickshaw No. GRO 1100 came driven from the rear side i.e was following the scooter and during the process of overtaking the scooter, dashed against the scooter. As a result, he fell down, passers-by persons brought him to the hospital, and the treatment was taken thereafter the claim has been filed.

3. Learned counsel for the appellant has contended that the Tribunal erred in the finding with regard to the permanent disability as nil and in not awarding any compensation on the head of

loss of earning capacity. The Tribunal failed to appreciate that Dr. Agarwal who assessed the injuries deposed at Exh 82 and issued the certificate at Exh 59 that the claimant sustained multiple fractures with male union and arthritic charges. He deposed that movement of elbow joint was restricted and painful. He assessed limitation of movements to the extent of 30 to 10 with functional loss of 20%.

4. Learned counsel for the appellant has contended that the Tribunal erred in overlooking that the claimant worked as Works Assistant with Road and Building Department and in holding that claimant worked as clerk. Further the Tribunal has erred in concluding that as clerk claimant not likely to feel any difficulty in doing the work. According to him the Tribunal committed an error in not awarding any amount under the head of pain, shock and suffering.

5. He further contended that the Tribunal has also erred in not awarding the amount for medical

and post-operative treatment expenses as claimed.

7. As a result of hearing and perusal of the record it is found that the claimant has not produced any evidence worth the name in respect of medical expenses. Even then the Tribunal has awarded a sum of Rs 1000/- As regards other claims are concerned it would be relevant to note the observation of the Tribunal as under. I am of the view that the Tribunal has considered all the apects of the matter and nothing is pointed out to show that any interference is required in the appeal. Hence the appeal is dismissed. No order as to costs. I am in complete agreement with the reasonings adopted and findings arrived at by the Tribunal and no interference is therefore called for in the matter.

8. In the premises aforesaid, appeal is dismissed. No order as to costs.

(K.S. Jhaveri, J)

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